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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,275	11/09/2005	Patrick Lewis Blott	56108/315290 (SMNPH.002AP)	7350
20995 7590 06/30/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER KIDWELL, MICHELE M				
ART UNIT		PAPER NUMBER		
3761				
NOTIFICATION DATE		DELIVERY MODE		
06/30/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/533,275

Applicant(s)

BLOTT ET AL.

Examiner

Michele Kidwell

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 4/11/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 11, 2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 2, 6 – 8, 10 – 16, 18 – 24 and 26 – 33 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 84/01904.

With respect to claims 1, 10 – 15, 20 – 24, 26 – 29, 31 and 33, WO 84/01904 (hereinafter '904) discloses an apparatus for aspirating, irrigating and/or cleansing wounds and method thereof, comprising:

a) a fluid flowpath, comprising

i) a conformable wound dressing (10), having a backing layer capable of forming a relatively fluid-tight seal or closure over a wound and at the at least one inlet and outlet conduit, the backing layer comprising a wound-facing face,

at least one inlet and outlet conduit for moving a fluid in the flowpath to the wound wherein the at least one inlet and outlet conduit passes through or under the wound-facing face of the backing layer (figure 1),

ii) means for fluid cleansing (sterilizing filter 14) communicating with the at least one inlet conduit and the at least one outlet conduit and adapted to remove from the fluid in the flowpath one or more materials deleterious to wound healing

b) a fluid reservoir (15) switchably connected to an integer of the flowpath via means for flow switching in the flowpath between supply of a fluid from the fluid reservoir or recirculation of the fluid in the flowpath, or a combination of the supply or the recirculation, wherein the fluid in the flowpath comprises an exudate from the wound or the fluid from the fluid reservoir, or a combination thereof, and

c) a device for moving the fluid through the flowpath (peristaltic pump 13) as set forth on page 2, line 37 to page 4, line 1 and in figure 1.

The examiner notes that tube 11 is separable from the tube that enters the reservoir and therefore is considered as being fully capable of being switchably connected to an integer of the flowpath. Likewise, the examiner notes that the fluid supplied via tube 11 from the reservoir 15 is recirculated through the device

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via tube 12, thereby constituting at least portions thereof as a bleed line. The valve and pump are taught on page 4, last paragraph.

As to claims 2 and 16, see page 3, line 33 discussing the sterilizing filter 14 which function as a single phase system.

With respect to claims 6 – 8, 18 – 19 and 32, see page 4, 2nd paragraph.

As to claim 30, see page 3, 1st paragraph.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 – 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 84/01904 in view of WO 00/50143.

The difference between '904 and claim 3 is the provision the means for fluid cleansing is a two phase system.

WO 00/50143 (hereinafter '143) teaches an apparatus for peritoneal dialysis which is fully capable of performing cleansing functions for wound healing (See Abstract, In. 1-7) which is a two- phase system in which the circulating fluid from the wound or body cavity passes through a means for fluid cleansing and materials deleterious to treatment healing are removed by contacting the spent fluid with a regeneration solution, which comprises another

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fluid. Therefore the reference discloses the equivalent of the means for fluid cleansing as claimed.

As all the elements of the claimed invention are known in the art, one skilled in the art could have combined the known elements by known means, yielding the predictable result of a treatment apparatus that uses a secondary regeneration or treatment solution to clean or regenerate fluid removed from the treatment area in order to provide a cleansing apparatus to be suitable to treat a patient with cleaned recirculated fluid as demonstrated by '143.

With respect to claims 4 – 5 and 17, see the rejection of claim 3.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 84/01904.

The difference between '904 and claim 25 is the provision that the regulator comprises a second pump.

It would have been obvious to one of ordinary skill in the art to provide the regulator with a second pump since the duplication of essential working parts of an invention is within the level of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761